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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,525	12/14/2001	William G. Massey III	450-59084	9079

24197 7590 02/26/2003
KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

EXAMINER

STEFANON, JUSTIN

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/020,525

Applicant(s)

MASSEY ET AL.

Examiner

Justin Stefanon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12-14-01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the arm" in line 7. There is insufficient antecedent basis for this limitation in the claim. An arm member has been claimed in line 6.

Claim 35 recites the limitation "a wall of the vehicle" in line 10 of the claim. A vehicle wall has previously been claimed in line 2.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9, 11-30, and 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 3,643,524 to Herring.

Herring discloses a foot pedal assembly for a vehicle having a wall 10 and a floor, seen in Figure 2. The assembly comprises a base or pedal support portion 58, a pedal 60, an arm member or pivot support member 66 pivotally coupled to the pedal and base, and an adjustment mechanism or pedal position mover comprising a

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rotatable screw 52 mounted to the wall and a carrier bracket 60 coupled to the upper portion of the base. A roller 64 is mounted to the arm member for rolling contact along the base and coupling the arm member to the base. The upper end portion of the base is pivotally coupled to the adjustment mechanism about the axis of the screw. A biasing mechanism 76 operatively connected to the upper end of the base and the adjustment mechanism biases the base toward the floor. A rub pad is placed on the floor at the lower end portion of the base, as seen in Figure 2. The adjustment mechanism is vertically adjustable with respect to the wall about the axis of bolt 12. The pedal support portion includes an upper segment 78, pivoted to the lower segment of the pedal support portion 58 and coupled to the position adjuster via the wall 10 and biasing pin 76. The rub pad on the floor contacts a shaft 59, comprising rolling means, rotatably mounted to the lower segment of the pedal support portion. A mounting bracket 40 is slidably mounted to the wall, and defines a vertically extending slot for receiving a releasable fastener 12. The base 58 has a vertical upper end, an angled intermediate portion 78, and a horizontal lower end portion, at spring 62, generally parallel to the floor. The upper end is pivotally connected to the intermediate portion. The assembly of Herring allows adjustment of elevation by rotation about bolt 12 and independent adjustment of fore-aft position by the screw. Adjustment of fore-aft position adjusts the angle of the pedal. Elevation of the support above the floor also adjusts elevation of the pedal.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herring in view of US Pat. No. 2,382,918 to Rubissow and further in view of US Pat. No. 6,019,015 to Elton.

Herring discloses the claimed invention except for the roller contacting the rub pad. Rubissow discloses that it is known in the art to provide a roller 70 at the base of an accelerator pedal in order to reduce friction upon contact with a rub pad 72. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the roller of Rubissow with the shaft 59 of Herring, in order to reduce frictional contact and to enable the pedal to maintain a more constant attitude with respect to the driver, as Elton teaches is desirable in column 3, lines 28-35.

7. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herring in view of US Pat. No. 3,181,666 to Dow.

Herring discloses the claimed invention except for the vertical slot allowing vertical adjustment of elevation while maintaining fore-aft position of the support. Dow discloses that it is known in the art to provide a slotted groove 17 with a bolt to adjustably mount an accelerator pedal adjustment member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the

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slot of Herring at bolt 12 with the vertical elongation of Dow, in order to allow a greater range of adjustability in the positioning of the pedal assembly in case of wear and potential elongation of the pedal support 58.

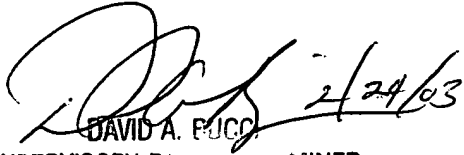
Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows several adjustable pedals with bases and rollers enabling the pedal to be adjusted relative to a vehicle floor.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Stefanon whose telephone number is 703-305-1945. The examiner can normally be reached on Monday - Thursday 6 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Bucci can be reached on 703-308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


DAVID A. BUCCI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3682

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February 24, 2003